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FEDERAL COMMUNICATIONS COMMISSION
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January 13, 1993

SPECIAL COUNSEL
JEROLD L. JACOBS

Donna R. Searcy, Secretary
Federal Communications Commission
Washington, D.C. 20554

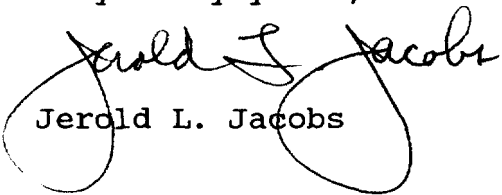
Re: MM Docket No. 92-214
FM Table of Allotments
Columbia and Bourbon, Missouri

Dear Ms. Searcy:

Enclosed herewith for filing, on behalf of our client, Lake Broadcasting, Inc., are an original and four (4) copies of its "COUNTERPROPOSAL REPLY COMMENTS OF LAKE BROADCASTING, INC." in the above-referenced FM channel rulemaking proceeding.

Please direct all inquiries and communications concerning this matter to the undersigned.

Very truly yours,


Jerold L. Jacobs

Enc.

cc: As on Certification of Service (all w/enc.)

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JAN 13 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 92-214
Table of Allotments,)
FM Broadcast Stations) RM-8062, RM-8144,
(Columbia, Bourbon, Leasburg,) RM-8145, RM-8146,
Gerald, Dixon, and Cuba, Missouri) RM-8147

TO: Chief, Allocations Branch
Mass Media Bureau

COUNTERPROPOSAL REPLY COMMENTS OF LAKE BROADCASTING, INC.

LAKE BROADCASTING, INC. ("Lake"), licensee of Station KBMX(FM), Eldon, Missouri, permittee of Station KXIY(FM), Cuba, Missouri, and an applicant for a new FM broadcast station on Channel 244A at Bourbon, Missouri, by its attorneys, pursuant to §1.415(d) of the Commission's Rules, hereby submits its Counterproposal Reply Comments in support of its own Counterproposal herein (RM-8147) and in response to the November 3, 1992 "Comments and Counterproposal" of Jeff Weinhaus ("Weinhaus") (RM-8144); the November 13, 1992 "Comments and Counterproposal" of Central Missouri Broadcasting, Inc. ("CMB") (RM-8146); and the November 13, 1992 "Comments-Counterproposal" of Tony Knipp ("Knipp") (RM-8145) in this proceeding. In support whereof, Lake shows the following:

1. The subject rulemaking proceeding was initiated by Notice of Proposed Rule Making ("NPRM"), 7 FCC Rcd 6230 (MMB 1992), which proposed, on behalf of Al Greenfield d/b/a The

Greenfield Group, Receiver ("Greenfield"), permittee of Station KCMQ(FM), Columbia, Missouri, to upgrade KCMQ's facilities from Channel 244C3 to Channel 244C1 and either to substitute Channel 297A for Channel 244A at Bourbon, Missouri, or to delete Channel 244A from the Table of Allotments, if there is no application filed for Channel 244A during the comment cycle herein.

2. Lake's Counterproposal urges the following key points:

(a) Channel 244A should not be deleted, because Lake has timely filed an application for a new FM station on that frequency at Bourbon (File No. ARN-921112MH), which precludes deletion of Channel 244A from the Table of Allotments "for lack of interest" (NPRM, ¶13);¹

(b) Greenfield's proposed upgrade to Channel 244C1 is fatally defective on two engineering grounds:

First, Greenfield and the NPRM incorrectly assume that Channel 297A is currently available for allotment at Bourbon, which it is not, since it is directly implicated in a still-pending FM channel rulemaking proceeding in MM Docket No. 89-120 (FM Table of Allotments (Northwey, Cuba, Waynesville, Lake Ozark, and Eldon MO) (the "Cuba" case), 7 FCC Rcd 1449 (MMB 1992)). Since

¹ In its November 30, 1992 Reply Comments (at 2) in this proceeding, Greenfield carelessly speculates that Lake's Bourbon application "may have been filed solely for the anticompetitive purpose of blocking KCMQ(FM) from being upgraded". However, Lake's November 13, 1992 "Comments" -- filed 17 days earlier -- anticipated such an accusation and specifically explained: "Lake was the original petitioner for the allotment of Channel 244A at Bourbon in 1988. The Commission's previous duopoly prohibition (amended in September 1992) precluded Lake from filing its application sooner". Moreover, Greenfield acknowledges (at 3) that "an allotment proceeding is not an appropriate forum to explore the issues surrounding the filing of Lake's Bourbon application". Thus, Greenfield's attempt to delete Bourbon's only FM allotment (without even a channel substitution) should be summarily rejected.

Channel 297A is presently "tied up" in the Cuba proceeding, it is premature for the Commission to consider allotting it to Bourbon, and Greenfield's proposal, which depends upon the availability of Channel 297A, is void as a "contingent" rulemaking proposal. See FM Table of Allotments (Kaukauna and Cleveland WI), 6 FCC Rcd 7142 n.2 (MMB 1991) (counterproposals -- and presumably petitions for rulemaking -- must be technically correct when initially filed and cannot be contingent upon future rulemaking events); FM Table of Allotments (Alturas CA), 7 FCC Rcd 7649, 7649 n.2 (MMB 1992) (proposed additional equivalent channel cannot be shortspaced to pending allotment proposal); and

Second, Greenfield's proposal does not place a principal community contour over any part of the city of Columbia, Missouri in clear violation of §73.315(a) and has significant line-of-sight obstruction in clear violation of §73.315(b). See FM Table of Allotments (Naples Park et al. FL), 7 FCC Rcd 4134, 4135 ¶5 (MMB 1992) (§73.315(a) violation is fatal to counterproposal);²

(c) In lieu of Greenfield's proposed substitution of Channel 297A for Channel 244A at Bourbon, the Commission should upgrade Lake's present Class A allotment at Cuba, Missouri (Station KXIY) to Channel 297C3. Channel 297C3 can be substituted at Lake's Cuba, Missouri transmitter site for Channel 271A (its present allotment) or 297A (the Cuba proposed allotment).

3. As Lake will now demonstrate, out of the four counterproposals under consideration (including Lake's), all are compatible with each other and consistent with the Commission's rules and policies, except for Knipp's.

4. The Lake, CMB, and Weinhaus counterproposals can be summarized as follows:

² Greenfield's November 30, 1992 Reply Comments (at 4-5) challenge Lake's technical attacks on Greenfield's allotment proposal. A copy of Lake's previously-filed Engineering Statement is attached for the Commission's convenience. Lake stands by its own engineering analysis.

<u>Channel Number</u>		
<u>City</u>	<u>Present</u>	<u>Proposed</u>
Columbia MO (No Change)	244C3	244C3
Bourbon MO (No Change)	244A	244A
Cuba MO (LAKE PROPOSAL)	271A (or 297A)	297C3
Dixon MO (CMB PROPOSAL)	-	243A ³
Leasburg MO (WEINHAUS PROPOSAL)	-	231A ⁴

The Knipp counterproposal is incompatible with Lake's counterproposal and is unacceptable in this proceeding because it proposes to use Channel 297 somewhere other than at Cuba (Knipp proposes to allot Channel 297C3 at Gerald, Missouri). Thus, like Greenfield, Knipp has erred by failing to take into account that Channel 297A is currently tied up in the Cuba proceeding. See Paragraph 2(b) above. A second major defect in Knipp's proposal is that he has not provided adequate information to demonstrate that Gerald (1990 U.S. Census pop. 888) is a community for allotment purposes. E.g., FM Table of Allotments (Liberty Hill SC), 6 FCC Rcd 4227 (MMB 1991).

5. In sum, the Greenfield rulemaking proposal and the Knipp counterproposal are procedurally and substantively violative of the Commission's FM allotment and engineering rules and policies and should be summarily denied. On the

³ CMB's Engineering Statement recites that CMB's Dixon "allocation point has been protected for 244A at Bourbon MO". Therefore, CMB's counterproposal is not incompatible with Lake's proposal to retain the Channel 244A allotment at Bourbon.

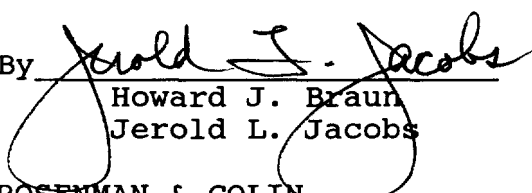
⁴ Weinhaus also proposes Channel 297A as an alternative to allotting Channel 231A at Leasburg. This chart includes only Channel 231A, because, as Lake has explained in Paragraph 2(b) above, Channel 297A is not available.

other hand, upgrading Lake's present Class A allotment at Cuba to Channel 297C3 will provide the area's first local wide-area FM service, and the proposals of CMB and Weinhaus (Channel 231A) are also consistent with the Commission's Rules and compatible with Lake's proposal. Therefore, Lake submits that the paramount public interest would best be served by granting the combined counterproposals of Lake, CMB, and Weinhaus (as summarized in the chart above) and by denying Greenfield's proposal and Knipp's counterproposal.

Respectfully submitted,

LAKE BROADCASTING, INC.

By


Howard J. Braun
Jerold L. Jacobs

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Its Attorneys

Dated: January 13, 1993

SELLMEYER ENGINEERING
BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS
P. O. Box 356 McKinney, Texas 75069
MEMBER AFCCE
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ENGINEERING STATEMENT IN SUPPORT OF OPPOSITION
OF LAKE BROADCASTING, INC.
TO PETITION FOR RULEMAKING
OF THE GREENFIELD GROUP
TO ALLOCATE CHANNEL 244C1
TO COLUMBIA, MISSOURI
NOVEMBER 13, 1992

This Firm has been retained by Lake Broadcasting, Inc., licensee of Radio Station KBMX(FM), Eldon, Missouri, to examine the proposal of The Greenfield Group ("Greenfield") to upgrade its allocation for Radio Station KCMQ, Columbia, Missouri to Channel 244C1.

THE ALLOCATION

The proposed allocation of channel 244C1 would be site restricted to a location approximately 40.6 kilometers south southeast of the Columbia, Missouri reference point. While this distance would normally be well within the 70 dBu contour for a Class C1 facility, unique terrain anomalies in the Columbia, Missouri area would not permit coverage of the principal city with the requisite 70 dBu coverage, even with maximum facilities.

The average terrain at the proposed allocation site was calculated in accordance with the methods prescribed in Part 73 of the Rules using the NGDC digitized 30 second terrain database with a computer program which linearly interpolates the intermediate points. The average terrain at the proposed site is 203.8 meters for the eight standard radials. Assuming maximum facilities for Class C1, the center of radiation would be 503 meters above mean sea level. The calculated distance to the 70 dBu contour using the method of Section 73.313 of the Rules is approximately 49 kilometers in the direction of Columbia. This contour is plotted on the map of Exhibit 1 for reference. This method would predict adequate coverage of the city of license.

An alternative prediction method using the methods suggested by NBS Technical Note 101 were employed to analyze the coverage within the city of Columbia using diffraction loss calculations to determine the loss due to terrain obstructions along the path. The path calculations were made using a threshold signal strength of 70 dBu using maximum facilities from the proposed reference point. A one degree azimuth interval with 0.2 kilometer resolution was employed for this study. The distance of each radial was extended to 50 kilometers. In areas where the signal can be expected to fall

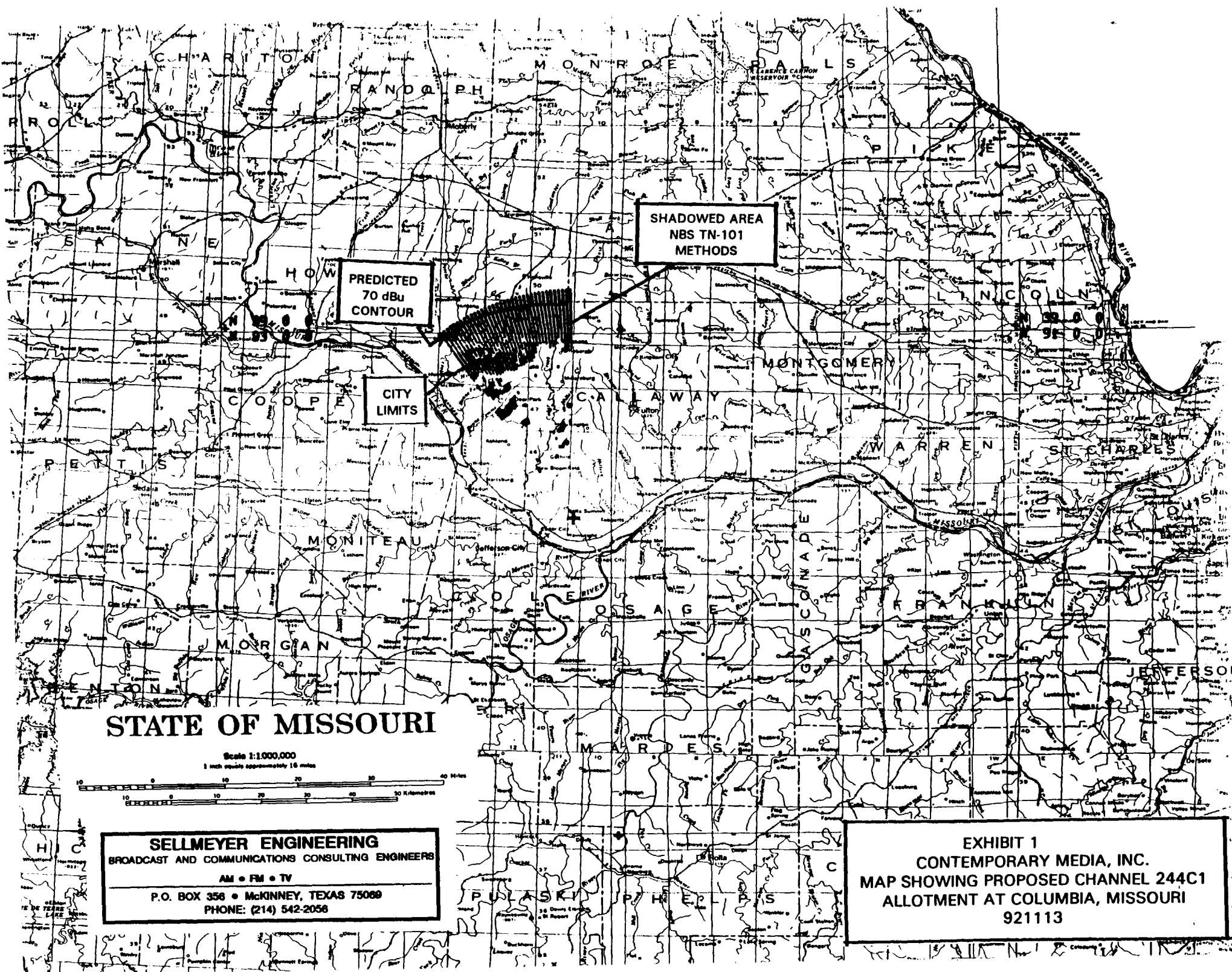
SELLMEYER ENGINEERING
BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS
P. O. Box 356 McKinney, Texas 75069
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below the required 70 dBu level, a line is drawn shading the area below the threshold. This shaded area is shown on the map of Exhibit 1. It may be clearly seen that no part of the City of Columbia, Missouri will receive city grade service from the proposed location.

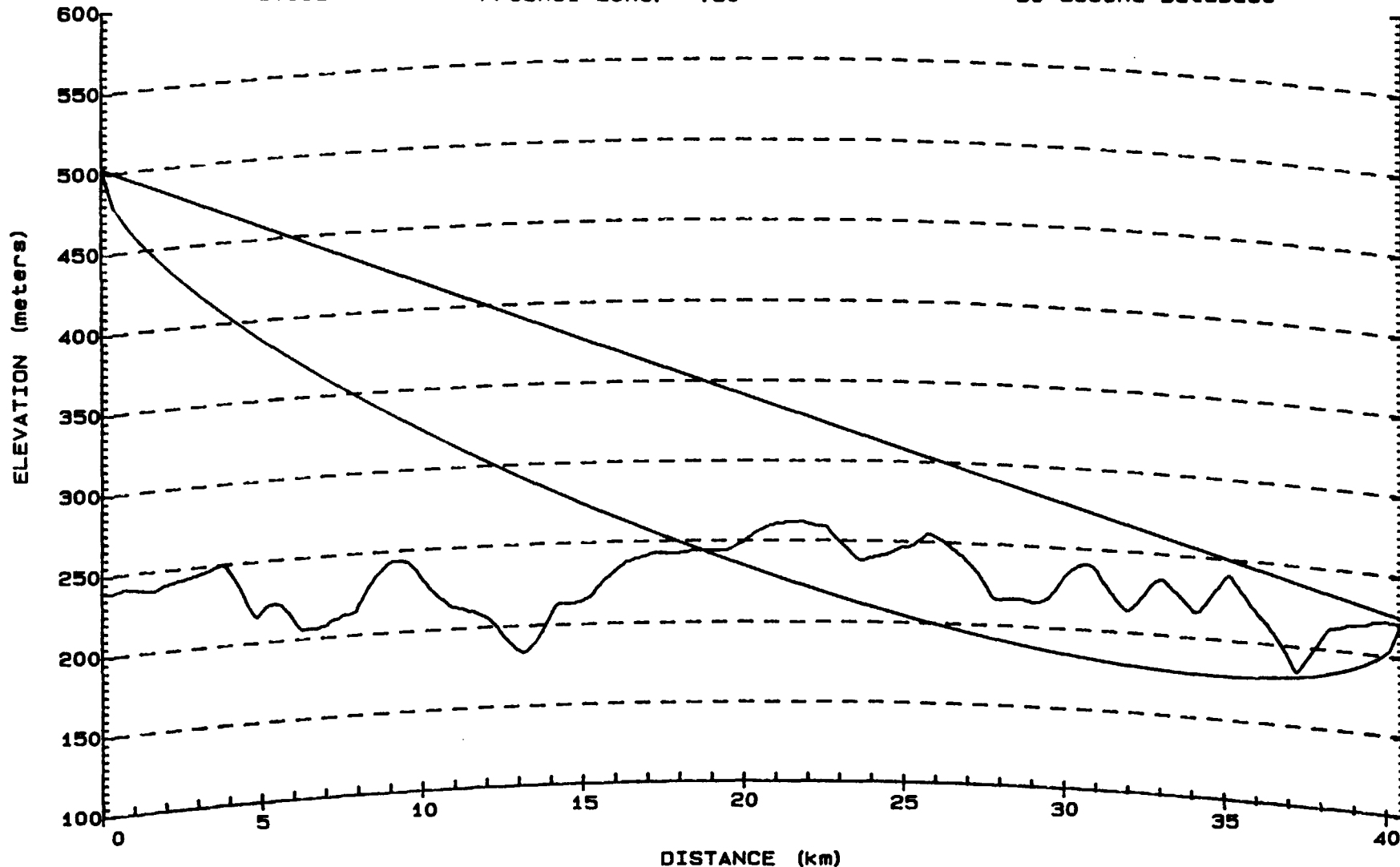
The path profile of Exhibit 2 shows the intervening terrain between the proposed transmitter site and the reference point for Columbia, Missouri. A 0.6 first Fresnel zone clearance line is shown on the profile. It is evident from the profile that an inferior signal will be placed over the City of Columbia. In some areas, notably the southern portion of the city about 37 kilometers from the transmitter site, reception be completely obstructed due to terrain blockage. Thus, it will not be possible to comply with Section 73.315(b) of the Rules.

The proposed allotment may not be made at a site closer to the City of Columbia due to spacing restrictions for Station KZBK, Brookfield, Missouri and Station KXTR, Kansas City, Missouri.

It is poor Public Policy to allocate a facility which cannot comply with the Rules of the Commission and, thus, cannot provide adequate service to the City of License. For these reasons, the proposal of Greenfield should be denied.



Transmitter coords: 38 37 40 92 7 0 Azimuth: 332.50 degs. Receiver Distance: 40.6 km
 Frequency: 96.7 MHz Transmitter Elevation: 503.0 m Receiver Elevation: 224.0 m
 Number of Obstacles: 0 Obstacle Loss: 5.3 dB Total Path Loss: 109.6 dB
 K factor: 1.333 Fresnel Zone: .60 30 Second Database



SELLMAYER ENGINEERING
 P. O. BOX 356
 MCKINNEY TEXAS 75069

EXHIBIT 2
 PATH PROFILE FROM PROPOSED
 KCMQ CHANNEL 244C1
 TO COLUMBIA, MO. REFERENCE POINT

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BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS
P. O. Box 356 McKinney, Texas 75069
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CERTIFICATION OF ENGINEER

I hereby state that:

I am President of Sellmeyer Engineering

The Firm of Sellmeyer Engineering has been retained by Contemporary Media, Inc. to prepare this Engineering Exhibit

I am a graduate of Arizona State University with the degree of Bachelor of Science in Engineering

I am a Registered Professional Engineer in the States of Ohio and Texas

My qualifications as an Engineer are a matter of record with the Federal Communications Commission

This Engineering Exhibit was prepared by me personally or under my direct supervision, and

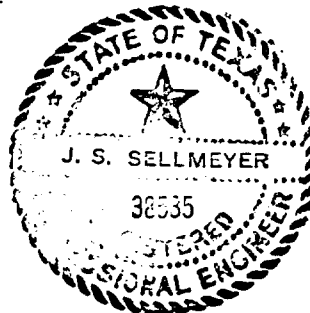
All facts stated herein are true and correct to the best of my knowledge and belief.



J. S. Sellmeyer, P. E.

November 13, 1992

P. O. Box 356
McKinney, Texas 75069
214-542-2056



CERTIFICATE OF SERVICE

I, Yvonne Corbett-Wrice, a secretary in the law offices of Rosenman & Colin, do hereby certify that on this 13th day of January, 1993, I have caused to be mailed, or hand-delivered, a copy of the foregoing "**COUNTERPROPOSAL REPLY COMMENTS OF LAKE BROADCASTING, INC.**" to the following:

Michael C. Ruger, Chief*
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Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8322
Washington, D.C. 20554

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Yvonne Corbett-Wrice

***BY HAND**